
**Minimal Nutritional Standards for Items Sold or Offered for Sale
During the School Day in Grades K-8, Rule**

The Background:

Tennessee has a problem of epidemic proportions - childhood obesity. The state has one of the highest rates of pediatric obesity, one of the highest rates of childhood Type II diabetes, and one of the highest rates of heart disease in the United States.

The dramatic increase in childhood obesity has led to an increased incidence of adult diseases occurring in children and adolescents. Overweight children are more than twice as likely to have high blood pressure or heart disease as children of normal weight. Even more alarming is the number of children with Type II, or non-insulin-dependent, diabetes. Type II diabetes, once known as adult-onset diabetes, puts kids at risk for very adult ailments, including blindness, nerve damage, kidney failure and cardiovascular disease. In addition, people who are overweight are at increased risk of asthma, arthritis-related disabilities, and some types of cancers.

As children spend an average of 2,000 hours in school each year, the school environment plays an influential role in the foods children eat nearly everyday. While the United States Department of Agriculture (USDA) regulates the nutrient content of meals sold under its reimbursable meal programs, similar standards do not exist for "competitive foods" that are sold outside the USDA meal programs in venues such as vending machines, a la carte lines, fund-raisers, snack carts, and school stores.

In 2004, the Tennessee General Assembly passed Public Chapter 708 now TC 49-6-2307. The bill requires the State Board of Education in consultation and cooperation with the Department of Education and the Department of Health to promulgate rules to establish minimum nutritional standards for individual food items sold or offered for sale to pupils during the school day.

In response to the legislation the State Board formed a task force to advise the Board. Task Force members included representatives of: school nutrition servers and coordinators, vendors, superintendents, pediatricians, dieticians, food manufacturers, school board members, diabetic specialists, dentists, health educators, parents, coordinated school health, the departments of health and education, the governor's task force, and the Board.

After proposing and presenting the rule to the State Board on first reading a public rulemaking hearing was held. Interested constituents attended the hearing and made public comments or provided written comments for the Board's consideration. The comments and concerns were sorted and summarized. The Task force met on March 28, 2005, to consider the public comments. At the meeting the Task Force revised its

first proposal. The rule presented for second reading provides a reasonable timeline for districts to comply with the new rule. More specific information on portion size and sodium content is included. Further, the Task Force added low calorie beverages to the acceptable beverage category.

A child who is physically healthy is more likely to be academically motivated, alert, and successful. Healthy eating also plays an important role in learning and cognitive development. Poor diet and unhealthy portion sizes have been found to adversely influence the ability to learn and to decrease motivation and attentiveness.

The final proposal is reflective of best nutritional standards and practices. It is fair, balanced, provides for healthy portion sizes, is easy to understand, and allows for a reasonable implementation.

The Recommendation:

The SBE staff recommends adoption on final reading.

New Rule

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0520-1-6-.04 Minimum Nutritional Standards for Individual Food Items Sold or Offered for Sale to Pupils in Grades Pre-Kindergarten through eight (Pre-K-8)

(1) Introduction.

The federal Child Nutrition Reauthorization Act, which applies to all schools that participate in the federal school lunch program, requires every school to adopt a wellness plan by June 30, 2006. As a component of a locally adopted wellness program, these nutritional guidelines are minimal and local boards of education may adopt more stringent guidelines.

Each local board of education shall develop and implement a district policy that, at a minimum, ensures compliance with these rules and designates a person responsible for oversight. The person designated as responsible for district compliance shall register with the state department of education.

Within one year of the revision of the Dietary Guidelines for Americans (DGA), the State Board of Education, in consultation and cooperation with the Department of Education and the Department of Health, shall review these rules.

(2) Definitions.

- (a) School day: Starting 45 minutes before the beginning of the official school day and continuing until 30 minutes after the end of the official school day.
- (b) Low calorie beverage (includes flavored, sweetened, and non-caffeinated water): A flavored, non-carbonated beverage that does not contain additional caloric sweeteners and does not contain more than 15 calories per serving.
- (c) Beverage serving: One serving of beverage that does not exceed 8 fluid ounces, except non-flavored, non-carbonated, non-caffeinated water.
- (d) Foods and beverages of minimal nutritional value: Those foods the United States Department of Agriculture (USDA) School Food and Nutrition Service defines as foods and beverages of minimal nutritional value including but not limited to: soda, gum, hard candies, marshmallow candies, licorice and candy coated popcorn.

(3) Nutritional Quality Standards

These standards are developed for foods and beverages sold or offered for sale during the school day in schools that include students in grades Pre-kindergarten through 8. These standards apply to food items sold or offered for sale during the school day including but not limited to school stores items, fund raising items, a la carte items, vending machine items, snack bars items, etc. These standards do not apply to foods served as a federally reimbursable meal to pupils. However, it is strongly recommended that schools meet these standards in federally reimbursable meals.

(a) Beverages that can be offered for sale in schools include the following:

1. Fluid milk that is flavored or unflavored; is reduced fat, low fat, or skim/non-fat; and meets state and local standards for pasteurized fluid milk and/or USDA approved alternative dairy beverages;*
2. Beverages that are 100% fruit and vegetable juices;
3. Water that is non-flavored, non-sweetened, and non-carbonated; and
4. Low calorie beverages (includes flavored, sweetened, and non-caffeinated water) that are flavored, non-carbonated beverages, containing no additional caloric sweeteners and no more than 15 calories per serving.

* There are no USDA approved alternative dairy beverages at this time. Public Law 108-265 (Child Nutrition Program Reauthorization) authorizes the Secretary of Agriculture to establish nutritionally equivalent non-dairy beverages by July 1, 2005.

(b) A food item that can be sold individually includes food that meets the following standards:

1. Calories from total fat must be at or below 35%, excluding nuts, seeds, and nut butters. This is determined by dividing the calories from total fat by the total calories and multiplying by 100. If calories from fat are not available, multiply the grams of fat by 9 to equal calories from fat
2. Calories from saturated fat must be at or below 10%. This is determined by dividing the calories from saturated fat by the total calories and multiplying by 100. If calories from saturated fat are not available, multiply the grams of saturated fat by 9 to equal calories from saturated fat.
3. Calories from sugar must be at or below 35% by weight. This is determined by dividing the grams of sugar by the gram weight of the product and multiplying by 100. This includes both naturally occurring and added sugars. This limit does not include fruits and vegetables as defined below.
4. Chips, cereals, crackers, French fries, baked goods, and other snack items may contain no more than 230 mg. of sodium per serving; pastas, meats, and soups may contain no more than 480 mg. of sodium per serving; and pizza, sandwiches, and main dishes may contain no more than 600 mg. of sodium.

(c) Fruits and Non-Fried Vegetables that can be sold individually include the following:

1. Fruits and vegetables may be fresh, frozen, canned or dried, and they must be found in the Food Buying Guide for Child Nutrition Programs. (<http://schoolmeals.nal.usda.gov/FBG/2003FBG/%20Section%202.pdf>).
2. Examples of products that cannot be sold as a fruit or vegetable include:
 - (i) Snack-type foods made from vegetables or fruits, such as potato chips and banana chips;
 - (ii) Pickle relish, jam, and jelly; and
 - (iii) Tomato catsup and chili sauce.
3. Fruits and non-fried vegetables are exempt from portion-size limits.

(d) Limit on portion sizes of foods and beverages sold individually are the following:

1. One and one-quarter ounces for chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, or jerky;
2. One ounce for cookies;
3. Two ounces for cereal bars, granola bars, pastries, muffins, doughnuts, bagels, and other bakery items;
4. Four fluid ounces for frozen desserts, including, but not limited to, low-fat or fat-free ice cream;
5. One ounce pure cheese that is lowfat or fat free containing 3.5 grams or less of fat.
6. Eight ounces for non-frozen yogurt; and
7. Eight fluid ounces for beverages, excluding non flavored water;

(e) The portion size of a la carte entrees and side dishes, including potatoes, shall not be greater than the size of comparable portions offered as part of school meals. Fruits and non-fried vegetables are exempt from portion-size limits.

(f) Individual food items that are part of a day's reimbursable school lunch program may be sold on that day as an a la carte item. All other school a la carte items are not to exceed the State Board of Education's standards for foods sold individually.

(4) Implementation

- (a) Schools serving pre-kindergarten through grade 5, shall implement these rules no later than one year after the effective date of the rules.
- (b) Schools serving grades 6, 7, or 8 shall implement at least 50% of the nutritional quality standards set forth above no later than one year after the effective date of these rules and

shall implement all of the nutritional quality standards within the following year. Schools that serve grades 6, 7, or 8 and also serve higher grade levels must meet the standards.

(5) Evaluation of Effectiveness

Each local board of education shall monitor implementation of these rules and shall evaluate the effectiveness thereof. School systems shall include a wide range of constituency groups in planning and implementing the evaluation and shall consider measures such as:

- (a) Participation rates in school meal programs;
- (b) Student satisfaction surveys to monitor the effects of consumption of healthy snacks on children's health, behavior, and school performance and to monitor satisfaction with snack choices;
- (c) Parent satisfaction surveys to monitor the effects of consumption of healthy snacks on children's health, behavior, and school performance and to monitor satisfaction with snack choices;
- (d) Frequency and types of health problems noted on school nurse logs;
- (e) Frequency and types of mental health and behavioral problems noted on counselor logs;
- (f) Incidence of student behavior infractions;
- (g) Teacher surveys of students' classroom behavior, attention span, and memory; and
- (h) Test scores.

Authority: T.C.A. § 49-6-2307